

**Item 2****PROPOSAL: CHANGE OF USE FROM COMMERCIAL (PREVIOUSLY B1 OFFICE) TO 5 RESIDENTIAL UNITS (C3) – ADDITIONAL INFORMATION RECEIVED**  
**14/04/2021 & 11/06/2021****LOCATION: 56 COBDEN ROAD, CHESTERFIELD, S40 4TD**Committee Date: 12<sup>th</sup> July 2021

Ward: Brockwell

**1.0 CONSULTATION RESPONSES**

Ward Members	No representations received
Strategic Planning	Comments received – see report
Environmental Health	Comments received – see report
Local Highway Authority	Comments received – see report
Tree Officer	Comments received – see report
Chesterfield Refuse Department	Comments received – see report
Conservation Officer	Comments received – see report
Housing Regulation Officer	Comments received – see report
CIL Officer	Comments received – see report
Representations	3 x representations received – representations raise concerns for disruptive behaviour from the future residents of the property, antisocial behaviour, provision of off street parking being adequate, future tenancy of the dwellings, value of their own property, impact on a clean, tranquil and respectful residential area, erosion of quality of life for existing residents, overcrowding, impacts of on street parking, loss of privacy, noise and light pollution, impact on the Local Heritage Asset and the proximity to Abercrombie Conservation Area, the need for selective licensing, and the need for this type of housing in the area.

**2.0 THE SITE**

- 2.1 The premises, the subject of the application, is a detached two storey property that occupies a corner plot between Cobden Road and Newbold Road. The property is finished in a red brick with a tiled roof. The property has arched windows which are white with white heads and cills. There have been previous additions to the premises

however the premises is still regarded for its notable design and hence features on the [Local Heritage List](#). This is addressed in Section 6.7 of this report.

- 2.2 The property is located almost centrally in the plot with the exception that it is sited more to the north of the plot than the south. The area to the north is laid to lawn with three trees sporadically located and shrub planting growing along the perimeter fencing which is formed of black railings. There are also no.2 trees planted to the east of the application site; these are also located adjacent to the perimeter railings in front of the access door. To the west of the application site, a red brick wall denotes the boundary with no. 27 Gladstone Road whilst the south boundary is formed of a thick hedge. Off street parking is available to the south of the application site and provides off street parking for approximately no. 5 vehicles.
- 2.3 The property is located in a predominantly residential area; to the north of the application site, the property shares a boundary with number 95 Newbold Road, and flat numbers 1, 2, and 3 at 97 Newbold Road, whilst to the north east the application site shares a boundary with number 93 Newbold Road. These properties are located on the opposite side of Newbold Road. Located to the east of the application site and on the opposite side of the public highway of Cobden Road is no. 48 Cobden Road. To the south of the application site, the property shares a boundary with no. 54 Cobden Road. Finally, to the west of the application site and therefore to the rear, the property shares a boundary with no. 27 Gladstone Road.

### **3.0 SITE HISTORY**

- 3.1 There is no planning history for this application site.

### **4.0 THE PROPOSAL**

- 4.1 The application seeks planning consent to convert a former office building to a residential unit that has 5 individual self-contained units. It should be acknowledged that the current use of the premises is considered to be use class E following the introduction of the amended use class in September 2020. The only external changes proposed as part of the development is the removal of the external stairwell on the south facing elevation with the remainder of the changes proposed to facilitate the residential units being internal alterations.
- 4.2 The proposed development will result in no. 5 self-contained units which will be across two floors. One of the units will be sited across the two floors; this unit will be located to the north west of the application site, in one of the previous extensions to the premises. The proposal will result in three no. 1 bedroom units and two no.2 bedroom units. The accommodation will expand over two floors with two flats on the ground floor and two on the first floor. The flat located at the west of the application site will extend over the ground and first floor.
- 4.3 The submitted drawings indicate the proposed development will result in the removal of the existing external staircase located on the south elevation of the premises.

- 4.4 Details regarding the proposed bin store area, car parking and cycle area have been provided with the application.

## **5.0 PLANNING POLICY**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.
- 5.2 Whilst the premises subject of the application is not a Listed Building or located in a Conservation Area, the property is included in the Local List of Heritage Assets. The Local List of Heritage Assets is a locally-developed register of buildings and other features of the historic environment which are locally distinctive and have particular importance to the local community and which deserve recognition. The List allows the LPA to properly take account of the desirability of the conservation and enhancement of recognised assets when considering future planning applications.

### **5.4 Chesterfield Borough Local Plan 2018 – 2035**

- CLP1 Spatial Strategy (Strategic Policy)  
CLP2 Principles for Location of Development (Strategic Policy)  
CLP3 Flexibility in Delivery of Housing (Strategic Policy)  
CLP4 Range of Housing  
CLP14 A Healthy Environment  
CLP16 Biodiversity, Geodiversity and the Ecological Network  
CLP20 Design  
CLP21 Historic Environment  
CLP22 Influencing the Demand for Travel

### **5.5 National Planning Policy Framework**

- Part 2. Achieving sustainable development  
Part 4. Decision-making  
Part 5. Delivering a sufficient supply of homes  
Part 8. Promoting healthy and safe communities  
Part 9. Promoting sustainable transport  
Part 12. Achieving well-designed places  
Part 15. Conserving and enhancing the natural environment  
Part 16. Conserving and enhancing the historic environment

### **5.6 Supplementary Planning Documents**

- Designing Out Crime  
Successful Places' Residential Design Guide

## **6.0 CONSIDERATION**

### **6.1 Principle of Development**

- 6.1.1 The application site is within a sustainable location where works to create a domestic property are considered to be generally acceptable subject to policies CLP1, CLP2 and CLP20 of the Local Plan, as well as the wider objectives of the NPPF as set out below.
- 6.1.2 The application site is located within a predominantly residential area and therefore, it is considered, subject to compliance with relevant Local Plan policies, the proposal can be considered acceptable. This understanding is reflected in the comments received from the **Strategic Planning team** which note that the "*proposal does not fall within a local centre but is situated within the built-up area (CLP3) and falls within walking and cycling distance of the Newbold Road District Centre. Policies CLP1 and CLP2 support the principle of locating residential development in walking distance of a range of key facilities. The proposal falls within walking and cycling distance of the Newbold Road District Centre and therefore accords with the Spatial Strategy set out in Policy CLP1, which focuses new development within walking distance of key services as set out in Policy CLP2. The proposal also utilises existing development space, preserving land of environmental and agricultural value (CLP2 b). The principle of residential use in this location therefore supports the Spatial Strategy set out in the Chesterfield Borough Local Plan, subject to satisfying other local plan policy requirements, and the requirements of the NPPF.*"
- 6.1.3 The proposed use of no. 5 individual units as opposed to one large dwelling house is noted however, the LPA recognises the need for flexible choices in housing options (as outlined in CLP4). Furthermore, due to current legislation, it may be that a single dwelling can be converted to a HMO without the need for planning consent (subject to compliance with criteria set out in the legislation). Therefore, whilst the segregation of this property to 5 individual units may be regrettable by some, it is considered by this LPA to provide a positive contribution to the flexible housing options whilst ensuring a building that appears on the Local List of Heritage Assets is retained in an occupied state.
- 6.1.4 On this basis it is therefore considered the principle of the development is acceptable and the proposal will need to demonstrate compliance with other relevant policies of the adopted Local Plan.

## **6.2 Design and appearance**

- 6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.
- 6.2.2 The development does not propose to change the external appearance of the premises and therefore the appearance of the premises will remain unaltered, with the exception of the removal of the external staircase on the south facing elevation. This removal does not require planning consent however the removal of the staircase does facilitate more remove for manoeuvring in the proposed car parking area at the application site. This will be addressed in Section 6.5 of this report.

### **6.3 Impact on non-designated heritage asset**

- 6.3.1 Local Plan Policy CLP21 (Historic Environment) states that, “In order to ensure that new development conserves or enhances the significance of designated and non-designated heritage assets and their settings, the council will (e) identify, and where appropriate, protect non-designated heritage assets of local significance, set out in and referred to as the Local List.”
- 6.3.2 Para 197 of the NPPF states; The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.3.3 Whilst the development does not propose to change the external appearance of the premises, the premises is noted to be a Local Heritage Asset and therefore due regard to the building is required. The property is number 044 in the Local List and is noted to have a group value with the neighbouring properties noted within the immediate area (see Local List numbers 035 – 042). It is therefore considered important that the property is retained for its individual value as well as its group value. The premises is included in the Local List of Heritage Assets as it is considered “a good example of late nineteenth century Victorian Villa property and likely a product of the Chesterfield Benefit Society (a mid-nineteenth century Freehold Land Society). As such the property has an interesting history and makes a positive contribution to the surrounding street scene.”
- 6.3.4 A Heritage Asset Statement has been submitted to accompany this application. As a result of receiving this document (on 6th April 2021), the conservation officer was consulted with to understand the impact of the proposed development on the premises. The comments received from the Conservation Officer are detailed below;
- “Overall, the existing building makes a positive contribution to the street scene, and for that reason, I would like to see that any external works are repair only, and it is not intended that windows, doors, roof covering or boundary treatments are proposed to be changed. The application form makes no mention of external changes. There is only one elevation included to compare existing to proposed, but no changes in fenestration are detailed. The elevations do not provide any detail of proposed changes.*
- The proposed internal alterations appear to keep the principal floorplan close to original, with some alterations to doorways to allow for self-contained units. Ideally, any internal architectural features such as cornice, architraves, skirting boards, internal doors and staircases should be retained and/or reinstated or replicated. However, as this is not a statutorily Listed Building, this is a point of guidance for conserving a historic building only.”*
- 6.3.5 The comments received are noted and as identified in this report, the application seeks internal changes only. It is also important to recognise that the importance of keeping these types of properties in use, as opposed to falling into a state of disrepair. On this basis, a footnote will be attached to any decision granted to ensure the applicant (and any relevant party) is aware of the heritage asset status of this premises. The footnote

will advise of appropriate collaboration with the LPA prior to making further amendments changes to this property beyond those detailed in the application.

- 6.3.6 Therefore, on the basis the application seeks internal amendments only with limited external changes (and those only relating to the required bin storage area and cycle storage), the proposed development is considered to accord with the provisions of CLP21.

#### **6.4 Amenity Issues**

- 6.4.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. Policy CLP20 similarly requires development to have acceptable impacts on neighbours and future occupiers.
- 6.4.2 When considering the overall design of the proposed scheme, adopted Local Plan policy CLP20 (d) requires developers to consider how developments will be serviced, as well as having an acceptable impact on the amenity of users and neighbours (CLP20 (k)). As part of this consideration, the bin storage area and collection arrangement is to be reviewed. A drawing has been submitted with the application (labelled as Bin area proposed, received on 14/04/2021) which indicates the proposed location of the bin storage area. The Council's **Refuse Department** were consulted in respect of this submitted information to ensure, if approved, the development can demonstrate appropriate capacity for the storing of waste. Comments received from the Refused Department are detailed below:
- "I have looked at the bin information on the application and it is conflicting. One paragraph mentions each property to have a bin (If this was the case they would require space for 15 x 240 litre bins and in a different paragraph it mentions 1100 litre wheeled bins. If the developer decided to go down the communal waste collection method we would only allow general waste and recycling bins and based on the number of properties these would be general waste 660 litres and recycling would be MDR 660 litre and glass 360 litre (the landlord/resident would responsible for the purchase of the bin) I can see no issue with the location of the storage point but there would need to be sufficient room for the bins to be pulled out, swung round and pulled to the vehicle without obstruction."*
- 6.4.3 Based on the comments received from the Refuse Department, it is understood the proposed bin storage area is not clear and there is ambiguity to the proposed storage area. The comments received from the Refuse Department indicate the proposed location however would be acceptable, subject to sufficient space for the appropriate number of bins. It is therefore considered, based on these comments, the details regarding the bin storage can be secured through a planning condition. It is therefore considered appropriate to impose a condition to any decision issued.
- 6.4.4 Due to the limited external changes proposed as a result of this development, it is not considered the development will result in harm to the neighbouring residential properties. It is acknowledged there will be an intensification of use at the application site due to the net gain of no.5 dwellings however as these will be contained within the existing building, it is not considered the development will result in a harm to neighbouring properties such that a refusal of the application is warranted.

- 6.4.5 Furthermore, the Council's **Housing Regulation Officer** (HRO) was consulted with in respect of the proposed development. Comments received indicated that the unit is "*being converted to provide 5 self contained units that do not share basic facilities (kitchen/bathroom etc) from a former commercial building. If that is the case, and it is converted with building regulations, then the building as a whole will not be a House in Multiple Occupation as defined by the Housing Act 2004. I note that some of the comments refer to HMO/multi occupancy housing but it would not be as far as we are concerned. That said, if an individual flat were to be occupied by more than 2 unrelated people (and I understand some of the units are 2 bedroomed) then that flat would be an HMO but unlikely to be licensable.*

*If you can send me a plan I'm happy to look again but in general terms our main concerns would relate to bedroom size (minimum 6.51m<sup>2</sup> for single bedrooms/10.22m<sup>2</sup> for double bedrooms) and adequate amenity provision in terms of kitchen and bathing facilities for the number of occupants. The latter are unlikely to be a problem."*

- 6.4.6 Following receipt of these comments, it became apparent that the floor plans were not visible for viewing on the public access system. This was rectified and the HRO officer was reconsulted. Further comments received indicated that the HRO officer had viewed the proposed floor plans and had "*no further comment to make; have scaled off the bedrooms and they all appear to be of a good size.*"
- 6.4.7 To understand if the proposed development would have an unacceptable noise impact for the neighbouring properties and the surrounding area, the **Environmental Health Officer** (EHO) was consulted with.
- 6.4.8 The EHO raised no objections to the proposed development however did recommend planning conditions be attached to any decision granted. The planning conditions recommended are detailed below;

#### Noise

1. To minimise noise impacts on the existing residential dwellings, I recommend that 'construction work' shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials. NB - The above condition takes into account current guidance issued by Derbyshire County Council, Highways Agency and all Utility companies.
2. The residential units shall be constructed in such a manner that noise egress between the units is minimised. Suitable noise insulation must be included within the build.

#### Lighting

All lighting used on site shall be designed so as to control glare and overspill onto nearby residential properties.

- 6.4.9 The EHO did not raise any noise concerns regarding the occupancy of the proposed units due to the proposed use being residential, in a predominantly residential area. It is therefore anticipated that any noise as a result of this development (once occupied) will be that typical of residential living. The EHO is not able to predetermine the behaviour or noise that may / may not be generated by future residents.
- 6.4.10 The above conditions are considered appropriate for the development proposed and whilst no external lighting is proposed within the application, the condition is considered appropriate to safeguard against any future lighting (arising as a result of this development) overspilling onto the public highway. As a result, the recommended conditions will be imposed on any decision granted to ensure compliance with policy CLP14 of the adopted Local Plan.

## **6.5 Highway Safety**

- 6.5.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.
- 6.5.2 The Local Highway Authority were consulted with in respect of this application to determine if the proposal would have raise safety concerns with regards to highway safety. **The Local Highway Authority (LHA)** were consulted and the comments received indicated "*No objection although its recommended that the site is afforded with adequate off-street parking to serve the development proposals*".
- 6.5.3 The comments received from the LHA are noted and the application site is considered to be able to demonstrate no. 5 off street parking spaces. This is subject to details regarding the bin storage area being confirmed and not restricting the car parking provision at the application site. On this basis, it is considered appropriate to request details regarding the car parking area are provided in succession to the proposed bin storage area. This will ensure the proposed bin storage area will not impact the car parking arrangements at the application site. The provision of no.5 off street parking spaces is considered reasonable for an application site that is located within walking distance from the local district centre. The application site is also noted to be within walking distance from several bus stops located on Newbold Road (bus routes understood to be 1 and 1A, operated by Stagecoach and provide connections between Newbold & Langwith) as well a bus stop a further walk away but within acceptable walking distance:  
- Hawksley Avenue, Bus Route 2a – connections between Walton & New Beetwell St
- 6.5.4 In comments received from the **EHO**, it was noted of the need for the off street car parking area to include infrastructure for electric vehicle charging points. The EHO officer indicated the need for this provision as a result of the government set aspirational target for all new vehicles in the UK to be zero emission at source by 2040 (as contained in The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations: Detailed Plan, published July 2017). This need for provision of an Electric Vehicle Charging Point was also noted in the comments received from the **Strategic Planning Officer** in which the officer notes such provision will be need secured through a planning condition. This LPA would encourage the provision of 1 EVCP per car parking space provided and therefore no.5 EVCP would be optimal. This is especially true if

each car parking space is to be allocated to a residential unit. The developer is also encouraged to be mindful of the progression and transition to electric vehicles.

- 6.5.5 In addition, the **Strategic Planning Officer** noted that the details for cycle storage provision are limited and to ensure the proposed development complies with policy CLP22, further details regarding the proposed cycle storage will need to be provided. A written document was provided on 14<sup>th</sup> April 2021 to support this application however as the document is limited in information, it is considered the details regarding cycle storage area could be obtained through a condition and provided on the same plan that the car parking and bin storage area will be detailed on. By encapsulating the information together on one plan, the relationship between all three requirements (bin store, parking provision and cycle storage) can be assessed to ensure the proposal works.
- 6.5.6 On this basis, and subject to compliance with recommended planning conditions, the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

## **6.6 Biodiversity including trees and landscaping**

- 6.6.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species … and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.
- 6.6.2 The application form does not detail how the proposed development will contribute to biodiversity enhancement at the application site. As much of the works proposed are internal with limited external alterations, it is considered the development site will be able to demonstrate a biodiversity gain. This may be achieved through the inclusion of planting over and around the bicycle storage area and therefore climbing species of plants (such as Campsis radicans, Clematis vitalba and Jasminum officinale) are climbing species that would enhance biodiversity at the application site as well as enhancing the appearance of the application site.
- 6.6.3 Furthermore, it is considered the appropriate siting of bird/ bat roosting boxes within the trees at the application site would provide appropriate enhancement for this low impact development. The need for biodiversity enhancements were also noted in the **Strategic Planning Officer's** comments which noted “biodiversity measures will need to be secured by a condition”.
- 6.6.4 On this basis the proposal, subject to compliance with the condition imposed, is considered to accord with the provisions of policy CLP16 of the Local Plan.
- 6.6.5 The applicant's attention is drawn to the protected trees on neighbouring land to the west of the application site. Whilst there are no protected trees within the application

site, the **Tree Officer** has noted the need for the applicant to be aware that the root system and branches of the protected trees may encroach on to the application site. Prior to undertaking any works (such as pruning) to protected trees, consent is required from the LPA. An informative foot note will be added to any decision issued to ensure the applicant is aware of the need to protect the trees with a TPO and not damage the trees.

## **6.7 Climate Change**

- 6.7.1 Local Plan Policy CLP13 (Managing the water cycle) states that “development proposals will be expected to demonstrate that water is available to support the development proposed and they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.”
- 6.7.2 Given the specific requirements of a planning condition to secure this through building regulations, a condition will be imposed on any decision granted to ensure the development proposed does comply with this Building Regulation of water efficiency. This was also a recommendation in the comments received from the **Strategic Planning Officer**.

## **6.8 Developer contributions**

- 6.8.1 In April 2016, this LPA adopted a Community Infrastructure Levy (CIL) charge; all new dwellings are subject to this levy. The CIL tariff is separated into low, medium and high zones and this site is located within the medium zone. A charge therefore would be calculated on the high zone rate of £50 per square metre (index linked).

			A	B	C	D	E
Development Type	Proposed Floorspace (GIA in Sq.m)	Less Existing (demolition or change of use) (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index (permission)	Index (charging schedule)	CIL Charge
Residential Day	350	0	350	£50 (Medium Zone)	333	288	£20,234

### Calculation:

$$\text{Net Area (A)} \times \text{CIL rate (B)} \times \text{BCIS Tender Price Index (at date of permission) (C)} = \text{CIL Charge (E)}$$

$$\text{BCIS Tender Price Index (at date of Charging schedule) (D)}$$

- 6.8.2 It is acknowledged that it may be possible to offset the existing floorspace if the applicant is able to demonstrate the lawful use test by providing evidence that the existing floor area has been in continuous lawful use for at least six months in three years prior to the day that planning permission is granted.

## **7.0 REPRESENTATIONS**

- 7.1 The application has been publicised for the minimum required time period and no. 3 representations have been received as a result. The representations received raise concerns as detailed below;
- Council policy to return older properties back to family/ single occupancy properties to preserve the essence and desirability of the area,
  - Noise pollution,
  - Altercations and other antisocial behaviour,
  - Lack of parking,
  - The need for multi occupancy properties in the area,
  - Impact of the proposed use on the area,
  - Disruptive behaviour associated with other properties,
  - Overlooking of rear garden area all day and not just office hours,
  - Impact on privacy,
  - Traffic,
  - Opportunities for noisy revving engines,
  - Multiple residential units,
  - Object to commercial letting status, and not for occupation by the owner,
  - Impact to their own property and neighbourhood,
  - Undesirable precedent for erosion of residential areas of historic significance,
  - Irreversible long term cultural damage for short term gain,
  - Overcrowding,
  - Damage to property – clipped mirrors, dents, scratches to parked vehicles,
  - Increase in neighbour disputes,
  - Light pollution,
  - Smell pollution,
  - Impact on Local Heritage Asset,
  - Proximity to neighbouring conservation area,
  - The need for the landlord to be subjected to “Selective licensing”
  - The need for clarification on how the applicant decides to utilise the building – e.g. leasehold, sell the entire building, or sell the freehold etc.

7.2 Officer response:

Whilst many of the raised concerns are considered to be addressed in this report (see below), it is considered necessary to highlight that the concerns raised draw experience from a nearby neighbouring property which is understood to be a house in multiple occupation (HMO) and the troubles experienced as a result. It is not the duty of the LPA to predetermine the behaviour of any occupants of the proposed development. The development proposal has been reviewed by the Housing Regulation Officer who noted that due to each proposed flat having their own basic facilities, the development cannot be considered a HMO under the Housing Act 2004. It is important therefore that the application is determined as no.5 individual flats. The representations (available in full on the public access system) raise matters that are considered to be non-material planning considerations, such as increase neighbour disputes and damage to parked

vehicles, and predetermined behaviour. This LPA has sought to assess this application in accordance with the policies outlined in the adopted Local Plan.

7.3 Concerns regarding:

- Traffic and parking have been addressed in Section 6.5 of the report
- Principle of the development have been addressed in Section 6.1 of the report
- Noise and disturbances have been addressed in Section 6.4 of the report
- The heritage value of the application site in Section 6.3 of the report

**8.0 HUMAN RIGHTS ACT 1998**

8.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> October 2000, an Authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

**9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2019 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

9.2 The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to parking and manoeuvring space on the site as well the bin and cycle storage areas in order to achieve a positive outcome for the application.

**10.0 CONCLUSION**

10.1 Overall the proposal is considered to be acceptable in accordance with policies of the Local Plan as set out above. The application site is considered to be located within in a sustainable location in an established residential area. Concerns have been raised with regards to the future occupants and the impacts of an intensified use of the application site however this LPA cannot predetermine the behavior of any occupants and it is considered unreasonable to refuse the application on this basis. The use of the application site as no. 5 individual flats is considered appropriate and offers living

accommodation of a sufficient size, as demonstrated in comments received during the consultation period.

- 10.2 Given the application site is a non-designated heritage asset, there is consideration of the need to retain the positive contribution that the external façade of the property contributes to the streetscene and as the application proposes no external changes, it is considered this contribution will be retained. The applicant is aware of the status of the property.
- 10.3 Planning conditions have been imposed where necessary to mitigate the impact of the proposal to the surrounding properties and ensure the outstanding issues with regards to bicycle storage and biodiversity enhancements are appropriately addressed.

## **11.0 RECOMMENDATION**

- 11.1 It is therefore recommended that the application be **GRANTED** subject to the following conditions:

### **11.2 Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason** - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- East Side Elevation proposed V2 – Scale 1:100 @ A3 – Dated April 21
- North Side Elevation proposed V2 – Scale 1:100 @ A3 – Dated April 21
- South side Elevation proposed V2 – Scale 1:100 @ A3 – Dated April 21
- West side Elevation proposed V2 – Scale 1:100 @ A3 – Dated April 21
- Local Heritage Statement – Dated April 2021
- Proposed ground floor – Scale 1:100 @ A3 – Status A (received 11/06/2021)
- Proposed first floor – Scale 1:100 @ A3 – Status A (received 11/06/2021)

**Reason** - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

3. Construction work shall only be carried out between the hours of 8:00am and 6:00pm Monday to Friday and 9:00am to 5:00pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term 'construction work' shall

include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

**NB** - The above condition takes into account current guidance issued by Derbyshire County Council, Highways Agency and all Utility companies.

**Reason** – In the interest of residential amenities and in accordance with CLP14.

4. Within 2 months of commencement of development, or prior to occupation, whichever is sooner, unless agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration. Hard landscaping includes proposed structures (e.g. refuse storage, bicycle storage, external lighting etc). Included in these details shall be the proposed car parking layout. These works shall be carried out as approved prior to the occupation of the dwellings.

**Reason** – This condition is imposed to enhance the external appearance of the area and to ensure adequate provision for bin storage and bicycle storage is provided. The car parking layout is requested to ensure the spaces are not compromised by the bin / bicycle storage area. This condition is imposed in accordance with CLP20.

5. Within 2 months of the commencement of the development hereby approved, a scheme for biodiversity and ecological enhancement measures shall be installed/integrated into the development site. The ecological enhancement measures shall thereafter be retained and maintained throughout the life of the development.

**Reason** - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework.

6. As a minimum, no. 1 residential charging point shall be provided at the application site with an IPD65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. The socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the Local Planning Authority. The electric charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

**Reason** – This condition is imposed in the interests of reducing emissions and in accordance with CLP14.

7. The development hereby approved shall not be occupied until the optional requirement for water consumption (110 litres water use per person per day) in Part G of the Building Regulations have been complied with.

**Reason** – To protect the water environment in accordance with policy CLP13 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 149 of the National Planning Policy Framework.

8. The residential units shall be constructed in such a manner that noise egress between the units is minimised. Suitable noise insulation must be included within the build.

**Reason –** This condition is imposed in the interests of the occupants of the units and in accordance with CLP14.

9. All lighting used on site shall be designed so as to control glare and overspill onto nearby residential properties.

**Reason –** This condition is imposed in accordance with CLP20.

### **11.3 Informative Notes**

1. The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to parking and manoeuvring space on the site as well the bin and cycle storage areas in order to achieve a positive outcome for the application.
2. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
3. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.
4. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.
5. The applicant is advised of protected trees located to the north of the application site which may overhang the application site. Permission is required from this LPA prior to pruning or otherwise to these trees. It is an offence to damage a protected tree.
6. The applicant is advised of the status of the application site, currently known as 56 Cobden Road, in respect of the Local List of Heritage Assets. This LPA will endeavour to provide advice and guidance with regards to this property to retain notable features and fixings.
7. In accordance with condition 5, appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:
  - bird/owl/bat boxes  
(Locating your nestbox:

Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.

You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.

The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.

Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)

(Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)

- biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats – the applicant is encouraged to consider climbing plants that can be incorporated around the bike storage area
- measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance
- holes in fences and boundary treatment to allow species such as hedgehog to move across the site
- bee bricks